

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

JOAN ASBURY and RUSSELL ASBURY,

Plaintiffs,

vs.

Civ. No. 12-252 KG/RHS

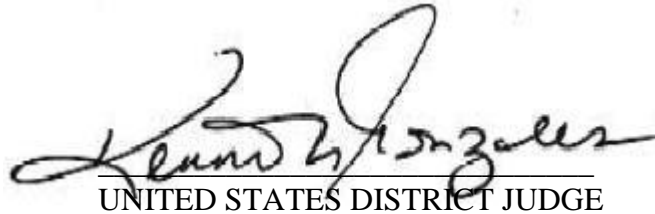
MNT, INC and DEAN SATEREN,

Defendants.

ORDER

On January 24, 2013, Defendants filed a Motion to Exclude Rodger Allen (Motion to Exclude). (Doc. 46). Plaintiffs filed a response and Defendants filed a reply. (Docs. 61 and 68). In their Motion to Exclude, under a heading titled “BACKGROUND,” Defendants allege facts describing the events surrounding the February 3, 2010, accident at issue. Defendants, however, fail to submit evidence to support their allegations of fact in accordance with D.N.M. LR-Civ 7.3(b), which provides that a “[m]ovant must submit evidence, in the form of affidavits, deposition excerpts, or other documents, in support of allegations of fact.” As a result of this discrepancy, the Court directs Defendants to file a supplemental brief no later than May 28, 2014, providing the Court with evidence to support their factual allegations, including Rodger Allen’s *curriculum vitae*. Defendants also must provide the Court with an amended statement of facts with pinpoint citations to the evidence that they provide. If Defendants fail to file a supplemental brief as ordered by the Court, herein, the Motion to Exclude will be denied with prejudice. If Defendants properly file a supplemental brief, Plaintiffs may file a response no later than June 6, 2014. Defendants will not be permitted to file a reply.

IT IS ORDERED that: (1) on or before May 28, 2014, Defendants must file a supplemental brief providing evidence in support of their allegations of fact and an amended statement of facts which properly cites to the evidence; (2) if Defendants fail to file a supplemental brief as the Court has ordered herein, the Motion to Exclude (Doc. 46) will be denied with prejudice; and (3) if Defendants properly file a supplemental brief, Plaintiffs may file a response by June 6, 2014.



UNITED STATES DISTRICT JUDGE